

### REMARKS/ARGUMENTS

In response to the Office Action dated January 16, 2007, favorable reconsideration of this application in light of the foregoing amendments and the following discussion, is respectfully requested.

The indication of allowability of Claims 5-15, 17-20, 22-25, 27, 3, 34-50, 91-112, 119-121, 127-142, 145, 146, 148-150, 153, 156, 157, 159, 160, 162, 164-211, 218, 221, 227, 231-235, 245-248, 253, 254, 256, 257, and 260 has been withdrawn in view of the newly discovered reference to Danks et al. (U.S.P. 5,868,773); and Claims 1-4, 32, 33, 113-118, 122-126, 143, 144, 147, 151, 152, 154, 155, 158, 161, 163, 212-217, 219, 220, 222-226, 228-230, 236-238, 240-244, 249-252, 255, 258 and 259 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement; Claim 145 has been objected to as containing informalities and Claims 1-15, 17-20, 22-25, 27, 31-50, 91, 96-238 and 240-260 have been rejected under 35 U.S.C. §102 as being anticipated by Danks et al. (U.S.P. 5,868,773).

In response to the rejection of the claims under 35 U.S.C. §112, first paragraph, appropriate amendments have now been made to the claims to broadly claim that the penetrator includes a cannula and a slidable member (17) which Applicants submit is the structural equivalent of an obturator. However, for proper antecedent basis, the terminology in the claims has now been appropriately amended as suggested by the Examiner. In addition, the specification has also been appropriately revised to indicate that the sliding member is the equivalent of an obturator as would be understandable to one of ordinary skill in the art. In view of these amendments, withdrawal of the rejection of the claims under 35 U.S.C. §112, first paragraph is believed to be in order and the same is hereby respectfully requested.

Considering next then the Examiner's objection to Claim 145, it is to be noted that appropriate amendments have now been made to such claim for compliance with U.S. patent practice and procedure.

Lastly considering then the rejection of Claims 1-15, 17-20, 22-25, 27, 31-50, 91, 96-238 and 240-260 under 35 U.S.C. §102 as being anticipated by Danks et al., it is to be noted that the Examiner has cited Figure 5D as showing a guard 51 covering the distal tip of the blade and as having an edge angle which is smaller than the blade edge angle. It is noted in this regard that this view is a cross-sectional view as distinguished from the top plan view shown in Figure 4B of Danks et al. which clearly indicates that the guard 51 is oval shaped and thus has a guard edge angle which is significantly greater than the blade edge angle shown in such figure. These features of the guard claimed, as illustrated in Figures 6-11 of the present application and as explained at page 11, line 28 – page 12, line 4, serve to permit forward movement of the guard at the instant of entry through the peritoneum ahead of the blade so as to thus permit entry of the trocar beneath the peritoneum in a guarded fashion to help avoid entry of internal organs of the patient. In this regard, the Examiner's attention is also called to Figures 18-22 which explain the operation of the locking system which help permits operation of the guard in the manner mentioned above. Further discussion of the importance of the present invention is set forth in the present application with respect to Figures 28-33, as explained on page 19, line 15 through page 20, line 26. In view of the significant advantages provided by the guard in accordance with the present invention which is configured to expose the cut and then appropriately cover the blade at the point of entry through the peritoneum, the guard having an edge angle smaller than the blade edge angle of the blade, when viewed in plan view, the significant advantages of the present invention are obtained. Insofar as there is no teaching or suggestion of any kind within Danks et al. of the above-emphasized features of the present invention and insofar as the plan view shown in

Figure 4B of Danks et al. suggests a completely different configuration of shield 51 as compared with the cutting blade edge, it is submitted that each of the independent claims of the present application, which contain the above-emphasized limitations, patentably defines over Danks et al. as well as the remaining references of record.

In view of the foregoing, it is submitted that each of the independent claims merit indication of allowability. It is further submitted that each of the dependent claims in the present application contain additional limitations having no teaching or disclosure in Danks et al. or any of the remaining references of record. Accordingly, such dependent claims are also believed to be in condition for allowance.

In view of the foregoing, an early and favorable Office Action is respectfully requested.

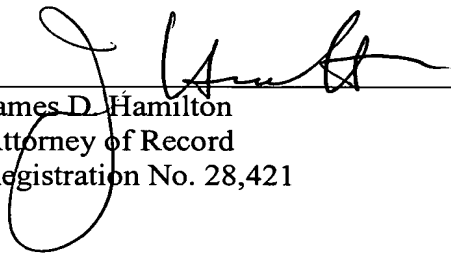
Respectfully submitted,

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